

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

UNITED PUBLIC WORKERS,	)	CIVIL NO. 03-00598 DAE/LEK
AFSCME LOCAL 646, AFL-CIO,	)	
MUTUAL AID FUND TRUST,	)	
	)	
Plaintiff,	)	AFFIDAVIT OF ERIC A. SEITZ
	)	
vs.	)	
	)	
GARY W. RODRIGUES,	)	
	)	
Defendant.	)	
_____	)	

AFFIDAVIT OF ERIC A. SEITZ

STATE OF HAWAII	)	
	)	SS.
CITY AND COUNTY OF HONOLULU	)	

ERIC A. SEITZ, being first duly sworn on oath, deposes and says:

(1) I am the principal attorney for the Defendant Gary W. Rodrigues in the above entitled matter.

(2) Mr. Rodrigues is sued in this case for alleged breaches of his fiduciary duties as the administrator of the Plaintiff Mutual Aid Fund Trust although he did not vote on or make any investment decisions.

(3) Trial in the above entitled matter is currently scheduled for the week of February 13, 2007 and the discovery cutoff has already expired.

(4) As of this date no discovery have been done in this case, and the Defendant has never been informed of what he allegedly did or failed to do that gives rise to his liability for any alleged breaches of his fiduciary duties.

(5) The primary witness in this matter is a man named Albert A. Hewitt who was charged and convicted of various criminal offenses in connection with his activities as a financial advisor and served a period of incarceration as a consequence of his convictions.

(6) Since the inception of this litigation the Plaintiff has been attempting to depose Mr. Hewitt and has scheduled his deposition on several occasions, but for various reasons - including the witness's apparent reluctance to cooperate - Mr. Hewitt still has not been deposed.

(7) Most recently Mr. Hewitt's deposition was scheduled, by agreement, to be conducted on December 14, 2006; however, the Plaintiff was unable to locate and serve Mr. Hewitt on that occasion, so the deposition could not proceed.

(8) We have relied upon the representations of Plaintiff's counsel that Mr. Hewitt will be produced for a deposition and have delayed other discovery which will be highly dependent upon the testimony of Mr. Hewitt.

(9) Accordingly, the case is not now ready for trial.

(10) Moreover because the United States Court of Appeals still has not

issued an opinion in a criminal matter involving Mr. Rodrigues, if this case were to proceed to trial at this juncture there would be significant issues as to the permissible scope of his cross-examination and impeachment which should be avoided by delaying the trial of this case.

(11) In addition, I have other trial commitments during the month of February which will necessitate that I be absent from the State of Hawaii.

(12) For all of the foregoing reasons it is requested that the trial in the above referenced case be continued and the discovery cut-off date in this matter be extended for for a period of 6 months.

/s/ Eric A. Seitz

ERIC A. SEITZ

Subscribed and sworn to before me  
this 27<sup>th</sup> day of December, 2007

/s/ Juli T. Seitz

Notary Public, State of Hawai'i

My Commission Expires: 1/4/08